

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT *JPL* 13 AUG - I AM 11:43  
FOR THE DISTRICT OF NEW MEXICO *JPL* CLERK-LAS CRUCES

CHARTER FITNESS OF RIO RANCHO LLC,  
CHARTER FITNESS OF SKYVIEW LLC,  
CHARTER FITNESS OF FAR NORTH LLC, and  
PETER J. VRDOLYAK III,

Plaintiffs/Counter Defendants,

v.

CIV 12-0365 RB/KBM

MAXREP LLC,  
BILL RODWAY, individually,

Defendants/Counterclaimants,

-and-

J.B. PRIVITT, individually,

Defendant in Default.

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND  
RECOMMENDED DISPOSITION**

The Chief Magistrate Judge filed her Proposed Findings and Recommended Disposition on July 5, 2013. See Doc. 25. The proposed findings notify the parties of their ability to file objections and that failure to do so waives appellate review. To-date, counsel have not filed any objections, and most recent response acknowledges that adoption will also dispose of the other pending motion to dismiss. See Doc. 26.

Wherefore,

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 25*) is **adopted**;
2. Plaintiffs' motion to dismiss (*Doc. 6*) is **denied in part and granted in part**, and Count II of the Maxrep's Counterclaim (*Doc. 4 at 16*) is **dismissed with prejudice**;
3. Plaintiffs' motion to dismiss (*Doc. 23*) is **denied**.

  
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UNITED STATES DISTRICT JUDGE